

Message Text

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PAGE 01 OTTAWA 01529 252237Z

15

ACTION EB-07

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ALL CONSULAR POSTS IN CANADA BY POUCH

E.OM 11652: N/A

TAGS: ETEL, CA

SUBJECT: DELETION/SUBSTITUTION ISSUE IN CABLE TELEVISION

LONDON FOR WALDMANN AND O'NEILL

REF: OTTAWA 1082, AND PREVIOUS

1. DELETION/SUBSTITUTION ISSUE HAS BEEN RAISED AGAIN BY CANADIAN RADIO-TELEVISION COMMISSION (CRTC) IN NEW CONTEXT AND WITHOUTAWAITING OUTCOME OF COURT CASES CHALLENGING BOTH PRACTICE AND ITS OWN JURISDICTION. IN THE PAST, REQUIREMENT HAS BEEN IMPOSED ESSENTIALLY IN CONNECTION WITHAPPLICATIONS FOR LICENSING OF NEW SYSTEMS OR FOR SIGNIFICANT EXPANSIONS (E.G., GEOGRAPHIC AREA AND CHANNELS) IN EXISTING SYSTEMS. ROUTING RENEWAL CASES HAVE NOT TO DATE BEEN THE OCCASION FOR IMPOSITION OF SUCH REQUIREMENT (SEE OTTAWA 1081, APRIL 17, 1974, PARA 2). HOWEVER, CRTC HAS BROADENED SCOPE OF MAY 6 HAMILTON, ONTARIO HEARING--WHICH WILL DEAL INTER ALIA WITH SOME 41 RENEWAL APPLCATIONS FROM MOST OF THE CABLE SYSTEMS IN THE TORONTO-NIAGARA PENINSULA-SOUTHERN ONTARIO

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PAGE 02 OTTAWA 01529 252237Z

REGION-- TO INCLUDE THIS ISSUE. TELEGRAM DATED APRIL 7

WAS SENT TO ALL APPLICANTS ADVISING OF THIS. LOCAL ATTORNEY FOR BUFFALO STATIONS HAS VIGOROUSLY INTERVENED IN CASES AND COPY OF HIS APRIL 23 INTERVENTION (CONTAINING TEXT OF TELEGRAM IDENTICAL TO THAT ISSUED BY CRTC) MADE AVAILABLE TO EMBASSY. COPIES FORWARDED APRIL 25 TO STATE (EUR/CAN AND EB/ITT/TD).

2. COMMENT: SO FAR AS WE CAN ASCERTAIN CRTC ACTED ENTIRELY ON ITS OWN INITIATIVE AS AN INDEPENDENT REGULATORY AGENCY IN RAISING ISSUE AGAIN IN THIS CONTEXT. IT IS EXPECTED THAT CRTC WILL ADD CONDITION REQUIRING DELETION/SUBSTITUTION TO RENEWALS OF THESE LICENSES WHEN THEY ARE GRANTED, ALTHOUGH CATV OPERATORS MAY BE EXPECTED ALSO TO OPPOSE THIS AT HEARINGS ON GROUNDS OF COST, POSSIBLE LIABILITY, AND BROADER JURISPRUDENTIAL CONSIDERATIONS. OUR SOURCES AT THE DEPARTMENT OF COMMUNICATIONS WERE QUITE SURPRISED BY THE ISSUANCE OF THIS TELEGRAM AS THEY WERE BY THE ISSUANCE ON FEBRUARY 17 OF THE ARRAY OF POLICY STATEMENTS DEALING WITH OTHER ASPECTS OF CABLE TV (SEE OUR A-190, MARCH 27). THEIR SURPRISE, HOWEVER, DOES NOT MEAN DISAGREEMENT ON THE ISSUE. THEY POINTED OUT THAT IN ALL PROBABILITY THE EFFECTIVE DATE CONTAINED IN THE RENEWED LICENSES WITH RESPECT TO THE IMPLEMENTATION OF A DELETION/SUBSTITUTION REQUIREMENT WILL BE SUFFICIENTLY DISTANT TO ALLOW NOT ONLY THE INSTALLATION OF EQUIPMENT BUT ALSO THE FINAL OUTCOME OF THE PENDING COURT CASES.

3. THE PENDING TAX LEGISLATION (SEE OTTAWA 1510) IS INTENDED BY THE GOC TO DEAL WITH PROBLEMS ARISING FROM THE DIRECT PLACEMENT OF ADVERTISING ON US STATIONS BY CANADIAN FIRMS (LOCAL AND BRANCHES OF MULTINATIONALS). DELETION/SUBSTITUTION WAS INTENDED ORIGINALLY TO DEAL WITH THIS AS WELL AS SPILLOVER QUESTION INVOLVING PRIMARILY MULTINATIONALS. LATTER IS A BIT FUZZY BUT IS BASED ON NOTION THAT LARGE FIRMS MARKETING IDENTICAL PRODUCTS ON BOTH SIDES OF BORDER (COCA COLA OFTEN GIVEN AS EXAMPLE) RELY ON PLACEMENT OF ADVERTISING ON US STATIONS TO REACH CANADIAN AS WELL AS US AUDIENCES INSTEAD OF ADVERTISING ADEQUATELY IN CANADA TO SUPPORT THEIR LOCAL SALES. AREAS LIMITED OFFICIAL USE

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PAGE 03 OTTAWA 01529 252237Z

SERVED EXTENSIVELY BY CABLE (E.G. THESE SECTORS OF ONTARIO) ARE CONSIDERED ESPECIALLY SUSCEPTIBLE THIS TACTIC AND DELETION (EVEN ON RANDOM BASIS) CONSIDERED ONLY APPROPRIATE DEVICE DEAL WITH PROBLEM BY FORCING CANADIAN SUBSIDIARIES BUT LOCAL ADVERTISING TIME ASSURE THEIR MESSAGE GETS ACROSS. ONCEPT ASSUMES HIGH DEGREE OF CENTRALIZATION IN MULTINATIONAL FIRMS REGARDING PLACEMENT OF ADVERTISING. WE HAVE HEARD FIGURE OF \$15 MILLION ANNUALLY USED TO REPRESENT REVENUES

CANADIAN BROADCASTING LOSES THROUGH MULTINATIONALS
RELIANCE ON SPILLOVER. HOWEVER, ACCURACY OF THIS
FIGURE FAR FROM CERTAIN.

4. DEPARTMENT WILL RECALL THAT LAST CANADIAN NOTE
(SEE OTTAWA 2383, JULY 29, 1974) FORECLOSED POSSIBILITY
OF FURTHER DISCUSSION ON ISSUE BECAUSE IT WAS BEFORE THE
COURTS. CRTC OBVIOUSLY NOT AWAITING OUTCOME OF COURT
CASES. SHOULD DEPARTMENT WISH RAISE ISSUE AGAIN, REFERENCE
TO THIS CRTC ACTION MIGHT BE APPROPRIATE. HOWEVER, WE
BELIEVE TAX AND DELETION/SUBSTITUTION ISSUES SHOULD BE
KEPT SEPARATE AND TIME FRAME FOR ANY US INITIATIVE ON TAX ISSUE
IS MUCH SHORTER. FOR FURTHER BACKGROUND ON THESE ISSUES,
DEPARTMENT'S ATTENTION IS DIRECTED TO OTTAWA 1081, APRIL 17, 1974
ON THE MECHANICS OF DELETION/
SUBSTITUTION AND TO OTTAWA 1111, APRIL 18, 1974, ON TAX
DEDUCTIBILITY.
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